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SUPREME COURT OF THE UNITED STATES.

No. 189.

THE UNITED STATES, APPELLANTS,

v.

GUADALUPE CANTUA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in case No. 137. Guadalupe Cantua, Claimant, *v.* The United States, Defendant, for the place named "San Luisita."

Office of the Board of Commissioners to Ascertain and Settle the Private Land Claims in the State of California.

Be it remembered that on this Anno Domini, one thousand eight hundred and fifty before the Commissioners to ascertain and settle the private land claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Guadalupe Cantua, for the place named "San Luisita," was presented and ordered to be filed and docketed with No. 137, and is as follows, to wit:

(Vide page of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

San Francisco, December 31st, 1852.

In case No. 137, Guadalupe Cantua for the place named "San Luisita," the deposition of Jose Maria Covarrubias, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with document marked H. H. No. 1, annexed thereto was filed.

(Vide page of this transcript.)

San Francisco, August 15th, 1853.

Case No. 137, called; submitted on briefs, and taken under advisement.

San Francisco, October 25th, 1853.

In case No. 137, Guadalupe Cantua for the place named "San Luisita," Commissioner Thompson Campbell delivered the opinion of the Board confirming the claim.

(Vide page of this transcript.)

Petition.

To the Honorable Commissioners to settle private Land Claims in California.

The petition of Guadalupe Cantua, respectfully shows: That in April, A. D. 1841, he applied to the proper authority for a grant of the tract of land known by the name of San Luisita, in the present County of San Luis Obispo.

That the said application was favorably indorsed by the local authorities; whereupon, on the 6th day of August, A. D. 1841, Juan B. Alvarado, Governor of California, by virtue of authority in him vested, granted to the petitioner the aforesaid tract of land, with the boundaries described in the grant, and set forth in map accompanying the expediente.

That on the 13th day of May, A. D. 1846, the said land was duly surveyed and the juridical possession of it given to the petitioner by the proper authority in due form of law. Copies of which expediente, map, grant, and juridical act of possession and survey are hereto annexed, marked A, B, C, with translations marked D, E, F.

The petitioner further shows, that the said land has not been surveyed by the Surveyor-General of the United States, but that it was duly surveyed and its limits marked out at the time of giving the juridical possession; that it has since been surveyed by the Surveyor of San Luis Obispo County, and that its boundaries are well known.

That the petitioner has been for more than eleven years and now is in the quiet, peaceful, and undisputed possession, occupation, and cultivation of the said tract of land; that he knows of no conflicting claim.

The petitioner relies for confirmation of title upon the original papers—copies of which are hereto annexed—upon the documents and minutes in the archives now under the charge of the Surveyor-General, and upon such other and further proofs as he may be advised are necessary.

Wherefore, he prays the Commissioners to confirm to him the said tract of land.

By his attorneys,

HALLECK, PEACHEY & BILLINGS.

Filed in office, March 30th, 1852.

GEO. FISHER,
Secretary.

Deposition of Jose Maria Covarrubias.

San Francisco, December 31st, 1852.

On this day, before Commissioner Hiland Hall, came Jose Maria Covarrubias, a witness in behalf of the claimant Guadalupe Cantua, petition No. 137, and was duly sworn, his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is Jose Maria Covarrubias; my age is 44 years; I reside in Santa Barbara, and have lived in California 18 years.

I am acquainted with the signature of Juan B. Alvarado, Manuel Jimeno, Jose de Jesus Pico, J. Mariano Bonilla; their signatures to the document before me, marked H, H, No. 1, are genuine. My own signature to the same document is genuine.

I know the rancho described in these papers. It has been occupied by Guadalupe Cantua since 1841, with a house, cattle, and horses, and has cultivated portions of the land; he lives on it now with his family.

JOSE MARIA COVARRUBIAS.

Sworn and subscribed before me.

HILAND HALL,
Com'r.

Filed in office, Dec. 31st, 1852.

GEO. FISHER,
Secretary.

Sor Prefecto, del 1o. Distrito.

Guadalupe Cantua Ciudadano Mejicano y vecino de esta demarcacion ante la justificacion de V. S. como myor proceda y mas haya lugar en derecho dijo que hallandose posedor de algunos bienes sin tener un parage apropreito donde fomentarlos solicito la propiedad de un terreno baldio que se halla en terrenos de la ex-mision de San Luis Obispo para considerarme acreador a el segun la lay de colonizacion. La estencion de cuyo sitio consta poco mas o menos de dos y medio citios de ganado mayor colindante por el Norte con D. Vicente Canet hasta llegar al arroyo del Chorro por la parte contraria, y por el Oriente con el ciudadano Victor Linares, hasto la sierra que queda al Oeste segun demnestra el diseno que al efecto acompano. Por tanto A. V. S. suplico se sirva tomar en consideracion mi presentandole el giro que corresponde de lo que necibire gracia. Monterey, Abril 18, de 1841. Por el interesado. Manuel Castro. San Juan de Castro, Mayo 10, de 1841. Pose al administrador de San Luis Obispo para que informe lo combeniente. Por enfermedad del Sor. Prefecto y de su orden. M. Costunares, Secretario, Sor Prefecto de conformedad con el decreto de V. S. digno que el terreno que se solecita es en su totalidad valdio y no se ocupa con ningunos bienes ni hace falta a este esta blecimiento en tal virtud, puedo el que pretende obtener su propiedad. San Luis Opispo Junio 7, de 1841, Vicente Canet. Exmo Sor Dn. Guadalupe Cantua solecita de la bondad de V. E. se sirva concederle la propiedad del terreno que aparece para el diceno que acompana y es perteneciente al Establecimiento de Sn. Luis Opispo. Segun el que informe del informe del administrador se encuentra valdio el terreno pretendido, sin hacer falta alguna a la ex-mision, y por lo tanto le fuere del agrado de V. E. esta Prefectura no encuentra inconveniente en que se sirva agraciar al solecitante. San Juan de Castro, Junio 13, de 1841. Jose J. Castro. Monterey, 6 de Agosto, de 1841. Vista la peticion con que da principio este Espediente el informe del Sor Prefecto del 1er. distrito el del encargado del Establecimiento de San Luis Obispo con todo lo demas que se tubo presente y ver convino de conformidad con los leyes y reglamentos de la mate-

ria; declaro al ciudadano Guadalupe Cantua dueno en propiedad del terreno conocido con el nombre de San Luisita, colindante al Norueste con el rancho del ciudadano Vicente Cane por el poniente con el del ciudadano Victor Linares por el norte con la Sierra y por el Sur con la Mision de San Luis Opispo, siendo la estencion de dicho terreno de un sitio de ganado mayor poco mas o menos Librese el despacho correspondiente, tomese razon en el libro respectivo y derijase este espediente a la Exma Junta Departamental para su aprobacion. El Sor Dn. Juan B. Alvarado, Gobernador Constitucional de las Californias asi lo mando, decreto y firmo de que doy fee. Es copia del espediente promovido por Guadalupe Cantua en pretencion del parage de Sn. Luisito.

JOSE MA. COVARRUBIAS.

Angeles, Febrero 9, de 1846.

Sello 1o. Seis pesos.

Habilitado provicionalmente por la aduana maritima de Monterey para los anos de 1839 y 1840.

ALVARADO,
ANTO. MA. OSIO.

Valga para los anos de 1841 y 1842.

ALVARADO,
ANTO. MA. OSIO.

[SEAL.] JUAN B. ALVARADO,

Gobernador Constitucional del Departamento de las Californias.

Por cuanto el ciudadano Guadalupe Cantua ha pretendido para su beneficio personal y el de su familia, el paraje conocido con el nombre de San Luicito, colindante al norueste con el rancho de Don Sor Vicente Cane, por el Poniente con el del Ciuda. Victor Linares por el Norte con la Sierra y al Sur con la Mision de San Luis Obispo, practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mejicana he venido en concederle al terreno mencionado, declarandole la propiedad de el por las presentes letras, sujetandose a la aprobacion de la Exma Junta Departamental y a las condiciones siguientes.

1a. Podra cercarlo sin prejudicar las travesias, caminos y servidumbres, lo disfrutara libre y esclusivamente destinandolo al uso o cultivo qe. mas le acomode pero dentro de un ano fabricara casa y estara habitada.

2a. Solecitara del Juez respectivo que le de posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites, pondra a mas de las mohoneras, algunos arboles frutales o silvestres de alguna utilidad.

3a. El terreno de que se hace mencion es de un sitio de ganado mayor, segun esplica el diseno qe. corre en el espediente. El Juez

que le decre la pocesion lo hara medir conforme o ordenanza, quedando el sobrante que resulte a la nacion para los usos convenientes.

4a. Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando qe. teniendose por firme y valedero este titulo, se tomese razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines. Dado en Monterey a dos de Agosto de mil ochocientos cuarenta y uno.

JUAN B. ALVARADO.
MANL. JIMENO,
Srio.

Queda tomada razon de este despacho en el libro de acientos sobre adjudicacion de terrenos baldios f. C. vuelta.

JIMENO.

El Exmo Sor Gobernador ha dispuesto se tomese razon de esta concesion en la Prefectura del 1er distrito.

JIMENO.

Here follows a map or plan.

(For map, see original, page 9.)

Demarcacion de San Luis Obispo.

En Jurisdiccion de Sta. Barbara, Ano de 1846.

Espediente.

Promovido en la pocecion Juridica qe. se dio a Don Guadalupe Cantua del terreno que tiene concedido.

"C."

San Luis Obispo, Abril 27, de 1846.

Por presentado y admitido con lo pide habiendose saber al solecitante qe. pa. los bienes 1° de Mayo, previa citacion de los colindantes se medira el terreno qe. se ha concedido y se le dara la pocecion juridica qe. pretende. Asi lo decrete y firme yo el Juez de Paz de esta demarcacion.

PICO.

Otra si: digo que se sirva admitir esta en papel comun por no haber del sellado.

Sor Juez de Paz.

Guadalupe Cantua vecino de esta Jurisdicion ante V. como mejor proceda digo: que en virtud del titulo qe. debidamente acompano, el cual habilita a V. para darme la pocecion Juridica pido se sirvo aceder a ella, senalando el dia que se verifica. Por tanto A. V.

suplica se sirva proveer como pido que en ello recibire gracia y justicia.

GUADALUPE CANTUA.

San Luis Obispo, April 17, de 40.

En el Pueblo de San Luis Obispo a la veinte y siete dias del mes de Abril del ano de mil ochocientos cuarenta y seis siendo presente Dn. Guadalupe Cantua se hice saber el auto qe. antecede y digo: lo oye y es conforme de lo que doy fee con los testigos de acistencia pa. falta de escribano publico.

JOSE JESUS PICO.

Assa. JOSE GARCIA.
Assa. JOSE MNO. BONELLA.

Con esta fha citio a Dn. Vicente Cannet pa. conceder en el primero dia del mes de Mayo del presente ano el rancho de Dn. Guadalupe Cantua a las ocho de la manana y asento para diligencia.

JOSE JESUS PICO.
JOSE GARCIA,
J. MNO. BONELLA.

En el rancho de Dn. Guadalupe Cantua el dia primero de Mayo del ano de mil ochocientos cuarenta y seis hayandome en la casa de D. Guadalupe Cantua llego a ella D. Vicente Canet pr. la citacion qe. le hizo como colindante al referido Cantua y lo asente pr. diligencia qe. firmo con los testigos de asistencia.

JOSE DE JESUS PICO.

Assa. JOSE GARCIA,
Assa. J. MNO. BONELLA.

En el rancho de D. Guadalupe Cantua el dia primero del ano de mil ochocientos cuarenta y seis hayandome en la casa de D. Guadalupe Cantua llego *llego* a ella Dn. Vicente Cannet pa. la citacion qe. se hizo como colindante del referido Cantua y lo asente pa diligencia, qe. firmo con los testigos de asistencia.

JOSE JESUS PICO.

Assa. JOSE GARCIA.
Assa. J. MNO. BONELLA.

Incontinente en el mismo paraje dia mes y ano siendo presente Dn. Guadalupe Cantua yo el Juez de Paz acompanando de los de mi assa. hice medir un cordel con objeto de proceder a las medidas del terreno y al efecto se medio un cordel de cien varas Castellanas y para la constancia lo puse pr. diligencia qe. firme con los de mi acistencia de qe. doy fe.

JOSE JESUS PICO,
JOSE GARCIA,
J. MNO. BONELLA.

A continuacion en el mismo paraje dia mes y ano yo el Juez de Paz de San Luis Obispo con los de mi acistencia pa. falta un perito agrimensor, dispuse nombra dos medidores cordeleres de los concurrentes qe. fueron nombrados Dn. Francisco Salgado y Dn. Liono Feliz los cuales aceptando la encarga juraron pr. Dios y la Sta. Cruz, desempenarle fielmente segun su saber y entender; y lo asente pa. diligencia qe. firmo con los de mi acistencia.

JOSE DE JESUS PICO.
JOSE MNO. BONELLA.

En seguida en el mismo paraje dia mes y ano yo el Juez de Paz de San Luis Obispo con los de acistencia y concurrentes ya citados y presente Dn. Guadalupe Cantua con objeto de medir el terreno fuimos al punto qe. por el titulo senalarle el lindero con Dn. Vincente Canet y qe. es marcado por una zanja que riega las tierras de sembrados de el lindero de D. Juan Wilson a linea paralela de pr. el rancho de N. cuarto N. E. tomando los mididores el cordel pr. sus estremos medieron pr. tierra planea en partes y en otras lomeria muerto en su mejor estension sesenta y dos cordeles de cien varas Castellanas llegando estas a un aliso qe. se haya al N. cuarta N.E. del pie del Serro de Romaldo y que da tambien al frente de una piedra grande que esta al S. cuarta S.O. queda de dicho aliso y habiendose pasado adonde estar los linderos de Wilson de alli se tiro un cordel por el N. cuarta N. E. y se midieron sesenta y dos cordeles de cien varas Castellanas con las cuales se llego hasta la falda de la sierra demarcando la senal q. la servira de mohonera en portezuelo qe. se ve en la Sierra p. el mismo rumbo de alli se tiro el cordel toda la falda de la Sierra hasta medir la misma cantidad que el rumbo N. O. cuarta O. y termino con los linderos del citado Cannet y pa. concluir las medidas se tiro el cordel pr. el rumbo Sur cuarta S. O. y finaliso hasta el lindero de Wilson con lo qe. se concluyo la medida y senalados los linderos y terminos dentro de los qe. se comprendio en cuadro de veinte y cuarto mil ochocientos varas, tome pr. la mano a Dn. Guadalupe Cantua y en pretencion de los asistentes en voz clara le dije en nombre de la Nacion Mejicana doy a V. pocecion de este terreno qe. se ha medido y respondiendo qe. lo tomaba le mande qe. hisiese alguna demostracion de haber adquirido el dominio util y directo y con ello la propiedad de aquel terreno; y el como en demostracion de ser dueno y senoria caba la tierra, arranca yerba y tero piedras con la cual se concluyo el acto y pa. constancia lo firmo con los de acistencia.

JOSE DE JESUS PICO.

Assa. JOSE GARCIA.
JN. MNO. BONELLA.

San Luis Obispo, Mayo 3, de 1846.

Devuelvase esta diligencias originales al interesado pa. que haya

el uso que le convenga como testimonio de aquicision de propiedad y tomese razon en el libro correspondiente.

PICO.

San Luis Obispo, Mayo 5, de 1846.

Atendido el auto anterior se devolvio utiles y lo pr. diligencia qe. rubrique.

Queda tomada razon este Juzgado en el libro respectivo a fojas 1, 2, 3, y 4.

JOSE DE JESUS PICO.

Espediente promovido por el Ciudadano Guadalupe Cantua en solecitud del parage conocide con el nombre de San Luisito, 1841.

251.

Sello cuarto una cuartilla.

Habilitado provicionalmente por la aduana maritima del Puerto de Monterey, en el departamento de las Californias, para los anos de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO.

[SEAL.] ANTONIO MARIA OSIO.

Sn. Juan de Castro, Mayo 10, de 1841.

Pase al admor. en el establecimiente de Sn. Luis Obispo para que informe lo concerniente. Por enfermidad del Sr. Prefecto y de su orden.

MNL. CASTANARES.
Srio.

Sor Prefecto del 1er distrito.

Guadalupe Cantua Cno. Mejicano y vecino de esta demarcacion ante la justificacion de V. S. como mejor proceda y mas haya lugar en dto. digo que hayandome posedor de algunos bienes sin tener un paraje apropocito donde fomentarlos, solecito la propriedad de un terreno baldio que se halla en terminos de la Ex Mision de Sn. Luis Obispo pr. por concideracion me acredor a la leys la ley de colonizacion La Extension de dho sitio consta poco mas o menos de das y medio sitios de ganado mayor colindante pr. el norte con Dn. Vincente Cannet hasta llegar al arroyo del Chorro pr. la parte contraria doy el Oriente con el C. Vicente Linares, hasta la Sierra que queda al Oeste segun demnestra el diceno que al efecto se acompana. Pl. A. V. E. Suplico se sirva tomar en concideracion mi presente, dandole el fuero que corresponda de lo que recibire gracia.

Por el interesado MANUEL CASTRO.

Monterey, Abril 18, de 1841.

Sor Prefecto.

De conformidad con el decreto de V. S. digo que el terreno que se

solecita en su totalidad valdio que se ocupa con ningunas bienes ni hace falta a este establecimiento en tal virtud puede el que pretende obtener la propiedad.

VICENTE CANNET.

San Luis Obispo, Junio 7, de 1841.

Sello cuarto una cuartilla.

Habilitado provicionalmente por la aduana maritima del Puerto de Monterey en el Departamento de las Californias, para los anos de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO.
ANTONIO MA. OSIO.

[SEAL.]

Exmo. Sor.

Don Guadalupe Cantua solecita de la bondad de V. S. se sirva concederle la propiedad del terreno qe. aparece por el diceno que acompana y es precisamente el establecimiento de San Luis Obispo.

Segun el informe del admor de enoncer baldio el terreno pretendido, sin hacer falta alguna a la Ex-Mision q. pr. tanto, sin fue del agraciado de V. E. esta Prefectura no encuentra inconveniente en el, se siva agradecer al solecitante.

JOSE J. CASTRO.

San Juan de Castro, Junio 13, de 1841.

Monterey, 6 de Agosto, de 1841.

Vista la peticion con que da principio este espediente el informe del Sor. Prefecto del 1er. distrito y el del encargado del establecimiento de San Luis Obispo con todo lo demas que se tubo presente y ver convino de conformidad con las leyes y reglamentos de la materia declaro al Ciudadano Guadalupe Cantua, dueno en propiedad del terreno conocido con el nombre de Sn. Luisito, colindante al norte con el rancho del Cno. Vicente Cane por el Poniente con el del C. Victor Linares por el norte con la Sierra y por el Sur con la Mision de Sn. Luis Obispo, siendo la estension de dho terreno de un citio de ganado mayor poco mas o menos. Librese el despacho correspondiente, tomese razon en el libro respectivo y dirigase este Espediente a la Exma Junta Departamental para su aprobacion.

EL EX. SENOR DN. JUAN B. ALVARADO.

Sello cuarto una cuartilla.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey en el Departamento de las Californias para los anos de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO.
[SEAL.] ANTONIO MARIA OSIO.

Gobernador Constitucional de las Californias, asi lo mando, decreto y firmo de que doy fee.

Sello cuarto una cuartilla.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey en el Departamento de las Californias para los anos de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO.
ANTONIO MA. OSIO.

(Here follows a map or plan.)

(For map see original, page 21.)

Office of the Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and now, as such, having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican Territory, or Department of Upper California, do hereby certify that the seven preceding and hereunto annexed pages of tracing paper, numbered from one to seven, inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file, and forming part of the said archives, in this office.

In testimony whereof I have hereunto signed my name, officially, and affixed my private seal (not having a seal of office), at the city of San Francisco, Cal., this eleventh day of February, A. D. 1852.

SAMUEL D. KING,
Surveyor-General, California.

Filed in office, September 22, 1852.

GEORGE FISHER,
Secretary.

Stamp Fourth, one Cuartillo.

Provisionally authorized by the maritime Custom House of the Port of Monterey, in the Department of the Californias, for the years 1840 and 1841.

"ALVARADO."
ANTONIO MARIA OSIO.

Translation of Expediente.

San Juan de Castro, May 10, 1841.

[Custom House Seal.] Let this pass to the administrator of the establishment of San Luis Obispo, that he may inform that which is proper. Through sickness of his honor the Prefect, and by his order.

(Signed) M. CASTANARES,
Secretary.

Senor Prefect of 1st District:

I, Guadalupe Cantua, a Mexican citizen and resident of this demarcation, before the justification of your Honor, as he may best proceed, and best may in law say:

pleased to grant him the ownership of the land shown by the map which he transmits, and which belongs to the establishment of San Louis Obispo.

According to the report of the administrator the land solicited is vacant, and is not needed by the ex-Mission, and therefore, if it should please your Excellency, this Prefectura sees no objection to favoring the petition.

(Signed) JOSE J. CASTRO.

San Juan de Castro, June 13th, 1841.

Monterey, August 6th, 1841.

Having seen the petition with which this espediente commences, the report of the Prefect of the 1st district, that of the person in charge of the establishment of San Luis Obispo, with all other information which was borne in mind and deemed proper to be considered, in conformity with the laws and regulations on the matter, I declare Citizen Guadalupe Cantua owner in fee of the land known by the name of San Luisita, bounded on the northwest by the rancho of Citizen Vicente Canet, on the west by that of Citizen Victor Linares, on the north by the Sierra, and on the south by the Mission of San Luis Obispo. The extent of said land being one sitio de ganado mayor (one square league), a little more or less.

Let the corresponding title be issued; let note be taken in the proper book, and direct this espediente to the most Excellent Departmental Junta for its approval.

Senor Juan B. Alvarado, constitutional governor of the Californias, thus ordered, decreed, and signed, which I certify.

The above is a copy of the espediente of Guadalupe Cantua, petitioning for the place of San Luisita.

(Signed) JOSE MARIA COVARRUBIAS,
Secretary, E. C. R. P.

Angeles, February 9th, 1846.

Filed in office, March 30th, 1852.

GEO. FISHER,
Secretary.

"*E.*" *Translation of Grant.*

Stamp First, Six Dollars.

Provisionally authorized by the maritime custom house of Monterey for the years 1839 and 1840.

(Signed) ALVARADO.
(Signed) ANTONIO MARIA OSIO.

[Maritime Custom House of Monterey.]

Good for the years 1841 and 1842.
(Signed) ALVARADO.
(Signed) ANTO. MA. OSIO.

Juan B. Alvarado, constitutional governor of the department of the Californias.

Whereas Citizen Guadalupe Cantua has for his own personal benefit, and that of his family, petitioned for the place known by the name of San Luisito, bounded on the northwest by the rancho of Don Vicente Canet, on the west by that of citizen Victor Linares, north by the Sierra, and south by the Mission of San Luis Obispo; the proper investigations and examinations having been previously made as required by laws and regulations, using the powers conferred on me in the name of the Mexican nation, I have granted him the aforesaid place, declaring to him the ownership of it by these presents, subject to the approval of the Most Excellent Departmental Junta, and the following conditions.

1. He may enclose it without prejudice to the roads, cross-roads, and servitudes, and enjoy it freely and exclusively, making such use or cultivation of it as he may see fit; but within one year he shall build a house on it, and it shall be inhabited.

2. He will request the proper magistrate to give him the juridical possession in virtue of this title, by which the boundaries will be marked out; in which, besides the bounds, he shall place some fruit or forest trees of a useful character.

3. The land therein mentioned contains one sitio de ganado mayor (one square league), a little more or less, as shown by the map which goes with the Expediente.

The magistrate who may give the possession will cause it to be measured in conformity with ordinance, leaving the surplus which results to the nation for its convenient uses.

4. If he shall contravene these conditions he shall lose his rights to the land, and it may be denounced by another person.

In consequence, I order that this title, being held as firm and valid, note be taken of it in the proper book, and it be delivered to the party interested, for his security and other purposes.

Given in Monterey on this 2d of August, one thousand eight hundred and forty-one.

(Signed) JUAN B. ALVARADO.
(Signed) MANUEL JIMENO,
Secretary.

Note has been made of this title in the Book of Entries of grants of vacant lands, on folio 6, over.

(Signed) JIMENO.

His Excellency the Governor has ordered that note be taken of this grant in the Prefectura of the First District.

(Signed) JIMENO,
E. C. R. P.

Filed in office, March 30th, 1852.

GEO. FISHER,
Secretary.

"F."

Translation of Juridical Possession.

To the Justice of the Peace.

I, Guadalupe Cantua, a resident of this jurisdiction, before you, in the most proper manner, represent that, in virtue of the title which I duly transmit herewith, by which you are authorized to give me juridical possession, I request that you will be pleased to do so, naming a day on which to verify it.

I therefore pray you to have the goodness to grant as I request, by which I will receive favor and justice, &c.

(Signed) GUADALUPE CANTUA.

San Luis Obispo, April 27th, 1846.

P. S.—Be pleased to admit this on common paper, as there is none stamped.

San Luis Obispo, April 27th, 1846.

Having been presented and admitted as requested, let the petitioner know that on Friday, the 1st of May, the surrounding neighbors being previously summoned, the land granted will be measured, and the juridical possession asked for given. This I, the Justice of the Peace of this demarcation, decreed, ordered, and signed.

(Signed) PICO.

In the Pueblo of San Luis Obispo, on the twenty-seventh day of the month of April, one thousand eight hundred and forty-six, Don Guadalupe Cantua being present, I informed him of the foregoing order, and he acknowledged notice, and to this I certify with assisting witnesses for want of a Notary.

(Signed) JOSE DE JESUS PICO.

Assisting witnesses,

(Signed) JOSE GARCIA,

(Signed) J. MARIANO BONILLA.

San Luis Obispo, April 30th, 1846.

On this day Don Vicente Canet was summoned to appear on the first day of May of the present year, at the Rancho of Guadalupe Cantua, at 8 o'clock in the morning, and it was officially noted.

(Signed) J. DE J. PICO.

Assisting witnesses,

(Signed) JOSE GARCIA,

(Signed) J. MARIANO BONILLA.

In the Rancho of Guadalupe Cantua, on the first day of May, one thousand eight hundred and forty-six, I was in the house of Don Guadalupe Cantua, and Don Vicente Canet arrived there in com-

pliance with the summons issued to him as a colindante of said Cantua, and I made official note of it, which I signed with assisting witnesses.

(Signed) JOSE DE JESUS PICO.

Assisting witnesses,
(Signed) JOSE GARCIA,
(Signed) J. MARIANO BONILLA.

Then in the same place, day, month, and year, present Don Guadalupe Cantua, I, the Justice of the Peace, accompanied by those of my assistance, caused a cord to be measured for the purpose of measuring the land, and a cord one hundred Spanish varas long was measured. And in testimony I made official note of it, which I signed with those of my assistance, to which I certify.

(Signed) JOSE DE J. PICO.

Assisting witnesses,
(Signed) JOSE GARCIA,
(Signed) J. MARIANO BONILLA.

In continuation, in the same place, day, month, and year, I, the Justice of the Peace of San Luis Obispo, with the assisting witnesses, for want of a skilful surveyor, decided to appoint two measuring rope-bearers (from the bystanders), and those appointed were Don Francisco Salgado and Don Luciano Felis, who accepting the office, made oath by God and the Holy Cross to discharge it faithfully to the best of their knowledge and understanding; and I made official note of it, which I signed with those of my assistance.

(Signed) JOSE DE JESUS PICO.

Assisting witnesses,
(Signed) JOSE GARCIA,
(Signed) J. MARIANO BONILLA.

Immediately afterwards, in the same place, day, month, and year, I, the Justice of the Peace of San Luis Obispo, with the assisting witnesses and other persons aforementioned, and present Don Guadalupe Cantua, for the purpose of measuring the land, we went to the place which is designated by the title as the boundary with Don Vicente Canet, which is marked by a ditch (zanja), which waters the sowing ground, and is from the boundary of Don Juan Wilson, in a line parallel with the E. boundary north a quarter N. E., and the measurers taking the cordel by its extremities, measured partly over level ground, partly over low hills, in its greatest extent sixty-two cordels of one hundred Spanish varas each, terminating at an elder tree, which is N. by E. of the font of the "Cano de Romualdo," and opposite a large rock which bears S. by W. from said elder tree, thence we went to the boundary with Wilson, and from that point the cordel was drawn N. by E. sixty-two cordels of one hundred Spanish varas each to the slope of the Sierra, designating to serve as a bound or

"Portesuela" (depression in the ridge) which is seen in the Sierra in the same direction; thence the cordel was drawn along the slope of the Sierra, the same distance, in a direction N. W. by W., and the line terminated with the boundaries of Canet aforementioned. And to finish the measurements the cordel was drawn S. by W. and ended at the boundary of Wilson, with which the measurement was ended and the boundaries designated, and they contain a square of twenty-four thousand eight hundred varas as the sum of its sides.

I took Don Guadalupe Cantua by his hand, and in the presence of the witnesses, in a loud voice I said to him, In the name of the Mexican Nation, I give you possession of the land just measured, and having replied that he took it, I ordered him to make some demonstration of having acquired the useful and direct dominion and with it the ownership of that land, and to manifest that he was owner and lord of it, he dug up earth, pulled up grass, and threw stones, with which the act was concluded, and in testimony I signed with those of my assistance.

(Signed) JOSE DE JESUS PICO.

Assisting witnesses.

(Signed) JOSE GARCIA,
J. MARIANO BONILLA.

San Luis Obispo, May 3d, 1846.

Let these original official documents be delivered to the party interested, that he may make of them the use he may think proper, as a testimony of acquisition of ownership; and let note be taken in the corresponding book.

(Signed) PICO.

San Luis Obispo, May 5th, 1846.

In compliance with the foregoing order, this expediente was returned to Senor Guadalupe Cantua, in 9 folios, and I made official note of it, which I signed in rubric. Rubric of

J. DE J. PICO.

Note has been made in this Justice's Court in the proper book, on folios 1, 2, 3, and 4.

(Signed) JOSE DE JESUS PICO,
E. L. R.

Filed in office, March 30th, 1852.

(Signed) GEO. FISHER,
Secretary.

Opinion.

GUADALUPE CANTUA
v.
THE UNITED STATES.

San Luisita.

The papers filed in this case show, that on the 2d day of August,

A.D. 1841, the claimant obtained from Governor Alvarado a grant for a tract of land containing one square league, a little more or less.

The grant was proved to be genuine, and the signature is proved to be the handwriting of Governor Alvarado. It is also shown by papers properly proved and authenticated, that on the 3d day of May, A.D. 1846, the land embraced in the grant was duly surveyed, and juridical possession given by the proper officer.

There is no proof that any approval by the Departmental Assembly was ever made; the claim therefore is a mere equity.

It is proved by the deposition of Jose Ma. Covarrubias, that the claimant had occupied the land granted since 1841. That he had a house on it, that he had a portion of it under cultivation, that he lived on it with his family, and had horses and cattle on it. The proof we think shows a substantial compliance with the conditions of his grant. The description of the premises with the aid of the map on file, and which is made evidence in the case, is made sufficiently definite to enable the officer to designate the precise tract granted.

We are, therefore, of opinion that the claim in this case should be confirmed.

Filed in office, 25th, 1853.

GEO. FISHER,
Secretary.

Decree.

GUADALUPE CANTUA
v.
THE UNITED STATES.

In this case, on hearing the proofs and allegations it is adjudged by the Commission, that the claim of the said petitioner is valid, and it is therefore decreed, that the same be confirmed.

The lands of which confirmation is hereby made, are known by the name of "San Luisita," and bounded and described as follows, to wit: On the northwest by the Rancho of Don Vicente Canet, on the west by that of Citizen Victor Linares, north by the Sierra, and south by the Mission of San Luis Obispo, containing one square league, a little more or less. Reference for further description to be had to the translation of the juridical measurement as found in document marked "E," and filed as evidence in this case, and also to the map, which is a part of the traced copy of the espediente on file in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,

Filed in office, October 25th, 1853.

GEO. FISHER,
Secretary.

Office of the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California.

I, George Fisher, Secretary of the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing thirty-six pages, numbered from 1 to 36, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 137 on the docket of the said Board, wherein Guadalupe Cantua is the claimant against the United States, for the place known by the name of San Luisita.

In testimony whereof I hereunto set my hand and affix my private seal (not having a seal of office), at San [SEAL.] Francisco, California, this fourth day of August, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

(Signed) GEO. FISHER,
Secretary.

United States District Court, Southern District of California.

Clerk's Office, Los Angeles.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing 37 pages, numbered from 1 to 37, both inclusive, contain a full, true, and correct copy of transcript No. 137, filed in this office, wherein Guadalupe Cantua is appellee, and the United States are appellants, for San Luisita.

In testimony whereof I hereunto set my hand and affixed the seal of said Court at Los Angeles, California, [SEAL.] the 20th day of December, A. D. 1855, and of the Independence of the United States of America the eightieth.

C. E. CARR,
Clerk.

United States District Court, Southern District of California.

Clerk's Office, Los Angeles.

GUADALUPE CANTUA, Appellee,
v.
THE UNITED STATES, Appellants.
} Docket No. 26. Transcript No. 137.

Be it remembered, that on the 19th day of August, A. D. 1854, in the District Court of the United States for the Southern District of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision, and the papers and evidence upon which the said decision was founded,

of the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, in the case wherein Guadalupe Cantua is the claimant against the United States for the place named "San Luisita," was received and filed, and docketed with No. 26, and is as follows, to wit:

(Vide page 1.)

Los Angeles, Jan'y 10th, 1855.

In case No. 26, Guadalupe Cantua for San Luisita, a notice of appeal from the Attorney-General was filed.

(Vide page 3.)

Los Angeles, August 13th, 1855.

In the same case, the petition of the United States for review was filed.

(Vide page 3.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

Los Angeles, Sept. 24th, 1855.

In same case, the answer of Guadalupe Cantua was filed.

(Vide page 9.)

Los Angeles, Sept. 25th, 1855.

In the same case, the opinion of the Court was delivered, confirming the claim, and a decree entered accordingly.

(Vide page 10.)

Los Angeles, Oct. 18th, 1855.

In the same case, on motion of P. Ord, U. S. Attorney, an order of appeal was filed.

(Vide page 11.)

Office of the Attorney-General of the U. States.
Washington, 30th November, 1854.

GUADALUPE CANTUA
v.
THE UNITED STATES. } 137.

Order of Appeal.

You will please take notice that in the above case, decided by the Commissioners to Ascertain and Settle Private Land Claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 1st day of August, 1854, the appeal in the District Court of the United States,

for the Southern District of California, will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney-General.

Filed Jan'y 10th, 1855.
(Signed) C. E. CARR,
Clerk.

In the District Court of the United States, for the Southern District of California, Los Angeles County, State of California.

Petition for Review.

To the Honorable Isaac S. K. Ogier, Judge of the District Court of the United States, for the Southern District of California.

GUADALUPE CANTUA
ads.
THE UNITED STATES. } No. 26. Transcript No. 137.

The petition of Pacificus Ord (of Los Angeles County), Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in his proper person, on the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 30th day of March, A. D. 1852, Guadalupe Cantua presented a petition to the Commissioners to Ascertain and Settle the Private Land Claims in the State of California, claiming the tract of land called "San Luisita," in the County of San Luis Obispo, in the words and figures following, viz.: "The petitioner, Guadalupe Cantua, respectfully shows, that in April, A. D. 1841, he applied to the proper authority for a grant of the tract of land known by the name of San Luisita, in the present County of San Luis Obispo. That the said application was favorably indorsed by the local authorities, whereupon, on the 6th day of August, A. D. 1841, Juan B. Alvarado, Governor of California, by virtue of authority in him vested, granted to the petitioner the aforesaid tract of land, with the boundaries described in the grant, and set forth in the map accompanying the espediente. That on the 13th day of May, A. D. 1846, the said land was duly surveyed and the juridical possession of it given to the petitioner by the proper authority in due form of law, copies of which espediente, map, grant, and juridical act of possession and survey, are hereto annexed, marked A, B, C, with translation marked D, E, F.

"The petitioner further shows, that the said land has not been surveyed by the Surveyor-General of the United States, but that it was duly surveyed and its limits marked out at the time of giving the juridical possession; that it has since been surveyed by the Surveyor of San Luis Obispo County, and that its boundaries are well known.

"That the petitioner has been for more than eleven years, and now is in the quiet, peaceful and undisputed possession, occupation, and cultivation of the said tract of land.

"That he knows of no conflicting claim. The petitioner relies for confirmation of title upon the original papers, copies of which are hereto annexed, upon the documents and minutes in the archives, now under the charge of the Surveyor-General, and upon such other proofs as he may be advised are necessary.

"Wherefore, he prays the Commissioners to confirm to him the said tract of land."

Your petitioner further represents, that thereafter, to wit, on the 25th day of October, A. D. 1853, the said Commissioners confirmed by final decree the said claim of the said Guadalupe Cantua, in the words and figures following, to wit:

"In this case, on hearing the proofs and allegations, it is adjudged by the Commission, that the claim of the said petitioner is valid, and it is therefore decreed that the same be confirmed."

The lands of which confirmation are hereby made, are known by the name of "San Luisita," and bounded and described as follows, to wit: On the northwest by the rancho of Don Vicente Canet; on the west by that of Citizen Victor Linares; north by the Sierra, and south by the Mission of San Luis Obispo, containing one square league, a little more or less. Reference for a further description to be had to the translation of the juridical measurement, as found in document marked E, and filed as evidence in this case; and also to the map, which is a part of the traced copy of the Espediente on file in the case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, Oct. 25th, 1853.

GEO. FISHER,
Secretary.

That thereafter, to wit, on the 19th day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded, in said cause, was filed in the Office of the Clerk of the District Court of the United States, for the Southern District of California, and marked No. 26 (Transcript No. 137), reference to which it is prayed may be had, and made a part of this petition.

That on the 1st day of August, A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript, of said final decree, and proceedings of said Commissioners in said cause (No. 26), and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 10th day of January, A. D. 1855, the said Attorney-General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said Clerk of said District Court, for the Southern District of California, that the appeal in said cause of Guadalupe Cantua *v.* the United States, from the decision of the said Commissioners to ascertain and settle the private land claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this Honorable Court.

And your petitioner further represents and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said Commissioners to this Honorable Court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous on the following grounds:

I. And the said Attorney denies all and singular, each and every allegation in the said petition of said claimant to said Commissioners, of said date; and he further denies that any grant for said land was ever made, as alleged in said petition; and he denies further, that the said claimant has shown any or sufficient evidence of the validity of the said claim.

II. That the said alleged grant of Governor Alvarado was made in violation of the 4th article of the colonization law of Mexico, of the 18th of August, A. D. 1824, in this, that the land granted as alleged by claimant was and is within ten leagues of the sea-coast; and there is no evidence shown by claimant that the Supreme General Executive power of Mexico previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the sea-coast. And it is denied that such previous consent of said Supreme General Executive power of Mexico in such case was ever had.

III. That at the date of the said alleged grant, the said land, claimed as aforesaid, was occupied by, and in the possession of the Missions of the Territory of Upper California, and it was held and occupied particularly by the Mission of San Luis Obispo, and could not therefore be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico of the 18th day of August, A. D. 1824, and the regulations for the colonization of the Territories of Mexico, of the 21st of November, A. D. 1828.

V. That the said alleged grant of Juan B. Alvarado, of said date, contains no sufficient description of the locality, extent, and boundaries of the land claimed, by which it can be identified and surveyed,

and it is vague, and indefinite, and void for uncertainty. That the map referred to therein is vague and indefinite.

VI. That there is no evidence that the said alleged grant, of said date, was ever approved by the Departmental Junta of California or the Supreme Government of Mexico, and it is denied that it was ever approved by the said Departmental Junta, or said Supreme Government.

VII. That the said claimant shows no definitively valid grant or title for said tract of land. And it is denied that he has, or ever had any such grant or title.

VIII. That the pretended juridical possession of said land by Jose Jesus Pico, dated on or about the 27th and 30th of April, and the 1st, 3d, and 5th of May, A. D. 1846, was unlawful, for the reason that the said alleged grant had not then been approved by the said Departmental Junta of California, as required by the conditions of the said alleged grant, nor had it been approved by the said Supreme Government of Mexico.

IX. That the said pretended juridical possession of said date was not made according to the said alleged grant, and the map referred to therein, nor according to the ordinance or law, and it is vague, indefinite, and void.

X. That there is no evidence that the said Jose Jesus Pico was Justice of the Peace of San Luis Obispo on the said 27th and 30th of April, and 1st, 3d, and 5th of May, A. D. 1846, and that he then had lawful authority to give said claimant the juridical possession of the said land. And it is denied that the said Pico was a Justice of the Peace of San Luis Obispo at said date, and that he then as such lawful authority to perform the said pretended juridical acts.

XI. That there is not sufficient evidence that the said claimant performed the conditions of the said alleged grant, and that he built a house upon the said tract of land, and that it was inhabited within one year from the date of the said alleged grant, and that he cultivated the said tract of land. And it is denied that he performed the conditions of the said alleged grant, and that he built a house upon the said tract of land, and that it was inhabited within one year from the date of the said alleged grant, and that he cultivated the said land.

And the said claimant, having no valid right or title derived from the Spanish or Mexican Government, to the said land claimed by him, as aforesaid, the lawful right or title in and to the said land was acquired by and it now belongs to the said United States, by virtue of the treaty of peace, friendship, limits and settlement with the Republic of Mexico, dated at the City of Guadalupe Hidalgo, February 2d, A. D. 1848. And no proof having been made by said claimant, of the allegations of his said petition, or in support of his said claim, filed as aforesaid, no decree ought to have been made or

grounded thereon, but the said petition ought to have been dismissed, and said claim rejected by said Commissioners, upon the grounds aforesaid.

Wherefore the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the Act of Congress, entitled An Act to ascertain and settle the private land claims in the State of California, approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said Guadalupe Cantua may be served with a copy of this petition, and that this Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of the said Guadalupe Cantua, for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid, and all such other orders, judgments or decrees as may be just, with costs and general relief.

(Signed) P. ORD,
Attorney of the United States for the Southern District of California.

Filed August 13th, 1855.

C. C. CARR,
Clerk.

No. 26.

In the District Court of the United States for the Southern District of California.

THE UNITED STATES, Appellants,
v.
GUADALUPE CANTUA, Appellee.

Answer of Appellee.

Guadalupe Cantua, appellee, by his attorneys, appears, and for answer to the petition of the United States, filed herein, says, That his title to the land called San Luiscito, as set forth and described in his petition to the United States Land Commissioners, and in the documentary and other evidence filed in this case, is a good and valid title, and he prays this Honorable Court to affirm the decision of the Board of Commissioners, and to decree his title to be valid.

(Signed) HALLECK, PEACHY & BILLINGS,
Attorneys for Appellee.

Los Angeles, September 24th, 1855.

Filed September 24th, 1855.

C. E. CARR,
Clerk.

No. 26. "San Luisito."

District Court United States for the Southern District of California.

GUADALUPE CANTUA, Appellee,
ads.
THE UNITED STATES, Appellants.

Decree.

This cause coming on to be heard at a stated term of said Court on appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California, on the under an Act of Congress, approved 3d March, 1851. Transcript of the proceedings and decisions, and of the papers and evidence on which said decision was founded, and it appearing that the said transcript has been duly filed according to law; and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the said decision be in all things affirmed. And it is further ordered, adjudged, and decreed, that the claim of the said appellee is valid, and that the same be confirmed to the tract of land known by the name of San Luisito, to the extent of one square league, and no more, for the description of the boundaries of which land, reference will be had to the translation of the juridical measurement, as found in document marked "E," and filed as evidence in this case, and also to the map, which is a part of the traced copy of the Espediente also of file.

(Signed) M. HALL McALLISTER,
Judge Circuit Court U. S. for the District of California.

Filed September 25th, 1855.

(Signed) C. E. CARR,
Clerk.

In the United States District Court for the Southern District of California.—Special Term.

Los Angeles, September, 1855.

GUADALUPE CANTUA, Appellee,
ads.
THE UNITED STATES, Appellant.
No. 26.
"Transcript No. 187."

Order of Appeal.

On motion of P. Ord, Attorney of the United States for the Southern District of California, it is ordered by the Court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this Court against the United States, in the above-entitled cause, rendered on or about the 25th day of September, A. D. 1855.

(Signed) P. ORD,
United States District Attorney.